

NEW APPLICATION



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BEFORE THE ARIZONA CORPORATION COMMISSION  
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Commissioner

AUG 22 2002

MARC SPITZER  
Commissioner

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CMR

T-02847A-02-0641

IN THE MATTER OF THE  
APPLICATION OF ACCIPITER  
COMMUNICATIONS, INC., TO  
EXTEND ITS CERTIFICATE OF  
CONVENIENCE AND NECESSITY IN  
MARICOPA COUNTY

DOCKET NO. T-02847A-02-\_\_\_\_\_

APPLICATION

**INTRODUCTION**

Pursuant to the provisions of A.R.S. §§ 40-281 *et seq.*, and A.A.C. R14-2-502(A), Accipiter Communications, Inc., ("Accipiter" or the "Company"), hereby petitions the Arizona Corporation Commission ("Commission") for an order extending the Company's Certificate of Convenience and Necessity ("CC&N") in Maricopa County to include that portion of the proposed master-planned development known as Lakeland Village/White Peak Ranch (the "Extension Area") which is not already included within the Company's existing CC&N. Although the requested Extension Area is included on the service area maps of Qwest Corporation ("Qwest"), Qwest has no telecommunications facilities and no customers within the Extension Area. Thus, Accipiter requests that the Commission order the modification of Qwest's service area maps to remove the Extension Area. Further, Accipiter requests that the Commission authorize the Company to charge those rates and charges in the Extension Area that are contained in the Company's tariffs on file with the Commission. This Application is supported by the following facts and information:

## SECTION I

Pursuant to a CC&N granted by the Commission in Decision No. 59346 (*Docket No. U-2847-95-026*) dated October 11, 1995, Accipiter provides local exchange carrier services to approximately 78 customers with approximately 164 access lines in portions of Maricopa and Yavapai Counties, including Castle Hot Springs and Lake Pleasant Regional Park.

## SECTION II

Lakeland Village/White Peak Ranch is a multi-phased, master planned development that will be located southeast of Lake Pleasant Regional Park. The majority of the Lakeland Village/White Peak Ranch development is located within Accipiter's existing CC&N, and the Extension Area is contiguous to the southern boundary of the Company's existing CC&N. With this application, Accipiter seeks to extend its existing CC&N to include the entire development so that all residents of Lakeland Village/White Peak Ranch can receive local telecommunications service from a single provider. A map depicting the requested Extension Area is attached hereto as Exhibit "A" and incorporated herein by this reference. Specifically, Accipiter seeks to extend its CC&N to include the following areas:

### Township 5 North, Range 1 West, G&SRB&M

- All of Section 25.
- All of Section 26, except Maricopa County Assessors Office Parcel Nos. 503-89-008-L and 503-89-008-M as depicted on the map attached hereto as Exhibit "B" and incorporated herein by this reference.
- All of Section 35, except Lot 1 which is owned by the Arizona State Land Department as depicted on the map attached hereto as Exhibit "C" and incorporated herein by this reference.

### Township 5 North, Range 1 East, G&SRB&M

- The west ½ of the west ½ of Section 30.

1 Although no portion of the Extension Area is located within the CC&N of another local  
2 exchange carrier, the Extension Area is included on Qwest's service area maps. However, Qwest  
3 has no facilities and no customers in the requested Extension Area.

### 4 SECTION III

5 Accipiter has been contacted by Shea Homes, the developer of Lakeland Village/White  
6 Peak Ranch, which has expressed its desire that the entire development be served by a single local  
7 exchange carrier. Since the majority of the Lakeland Village/White Peak Ranch development is  
8 located within Accipiter's existing CC&N, Accipiter believes that it should provide service to the  
9 entire development. A single provider will eliminate the customer confusion and inconvenience  
10 that would likely occur from bifurcating the development between two providers. In addition, it  
11 will be more cost effective for Accipiter to provide service to the Extension Area since the  
12 Company will already serve the majority of the Lakeland Village/White Peak Ranch  
13 development.

### 14 SECTION IV

15 Accipiter will provide those local exchange services within the Extension Area that are  
16 identified in the Company's current tariffs on file with the Commission, including custom calling  
17 features and high-speed Digital Subscriber Line (DSL) services. The rates, charges, terms and  
18 conditions of local exchange service in the Extension Area will be the same as those set forth in  
19 the Company's tariffs.

### 20 SECTION V

21 Accipiter was incorporated under the laws of the State of Nevada, and is registered as a  
22 foreign corporation in the State of Arizona. The Company is in good standing in both states.  
23 Accipiter's business address and telephone number are:

24 2238 West Lone Cactus Drive, Suite 100  
25 Phoenix, Arizona, 85027-2641  
26 Phone: (928) 501-5000

## SECTION VI

Accipiter is an established local exchange carrier in Arizona, with demonstrated financial stability. Financial data for Accipiter is contained in the Company's annual reports on file with the Commission. As a rural local exchange carrier, Accipiter has access to low-cost loans through the U.S. Department of Agriculture, Rural Utilities Service, which will accrue significant benefits to the Company's customers.

## SECTION VII

With plans for the Lakeland Village/White Peak Ranch development moving forward expeditiously, a public convenience and necessity exists for public telephone service in the requested Extension Area. Accipiter has the requisite managerial expertise, technical expertise and financial wherewithal to provide a superior level of service to customers in the Extension Area.

## SECTION VIII

The requested service area is located entirely within the incorporated limits of the City of Peoria ("Peoria"). Although Accipiter has previously contacted Peoria regarding a municipal franchise for those portions of the Company's existing CC&N which lie within the city limits, Peoria has no current process in place for granting franchises. If and when Peoria adopts a process for granting franchises, Accipiter will apply for a franchise to use the public rights-of-way. No other city, county or state agency approvals are required.

## SECTION IX

Accipiter is providing a copy of this Application to Qwest simultaneous with this filing. The Company will provide such other notice of this Application as the Commission may order.

**SECTION X**

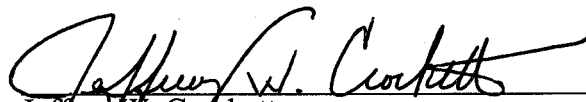
All correspondence regarding this Application should be directed to the Company's attorney as follows:

Jeffrey W. Crockett  
SNELL & WILMER  
One Arizona Center  
Phoenix, Arizona 85004-2202  
Phone: (602) 382-6234  
Fax: (602) 382-6070  
E-mail: jcrockett@swlaw.com

**CONCLUSION**

WHEREFORE, Accipiter Communications, Inc., respectfully requests that the Commission expeditiously set this Application for hearing and issue its Order: (i) authorizing the extension of Accipiter's CC&N to include the above-described Extension Area within Maricopa County; (ii) ordering the modification of Qwest's service area maps to remove the Extension Area; and (iii) authorizing Accipiter to impose those rates and charges in the Extension Area that are contained in the Company's tariffs on file with the Commission.

RESPECTFULLY SUBMITTED this 22nd day of August, 2002.



Jeffrey W. Crockett  
SNELL & WILMER  
One Arizona Center  
Phoenix, Arizona 85004  
(602) 382-6234  
Attorneys for Accipiter Communications, Inc.

ORIGINAL and ten (10) copies  
of the foregoing filed this 22nd day  
of August, 2002, with:

Docket Control  
ARIZONA CORPORATION COMMISSION  
1200 West Washington Street  
Phoenix, Arizona 85007

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COPY mailed this 22nd day  
of August, 2002, to:

Timothy Berg, Esq.  
FENNEMORE CRAIG PC  
3003 North Central Avenue  
Suite 2600  
Phoenix, Arizona 85012  
Attorneys for Qwest Corporation



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# **EXHIBIT A**





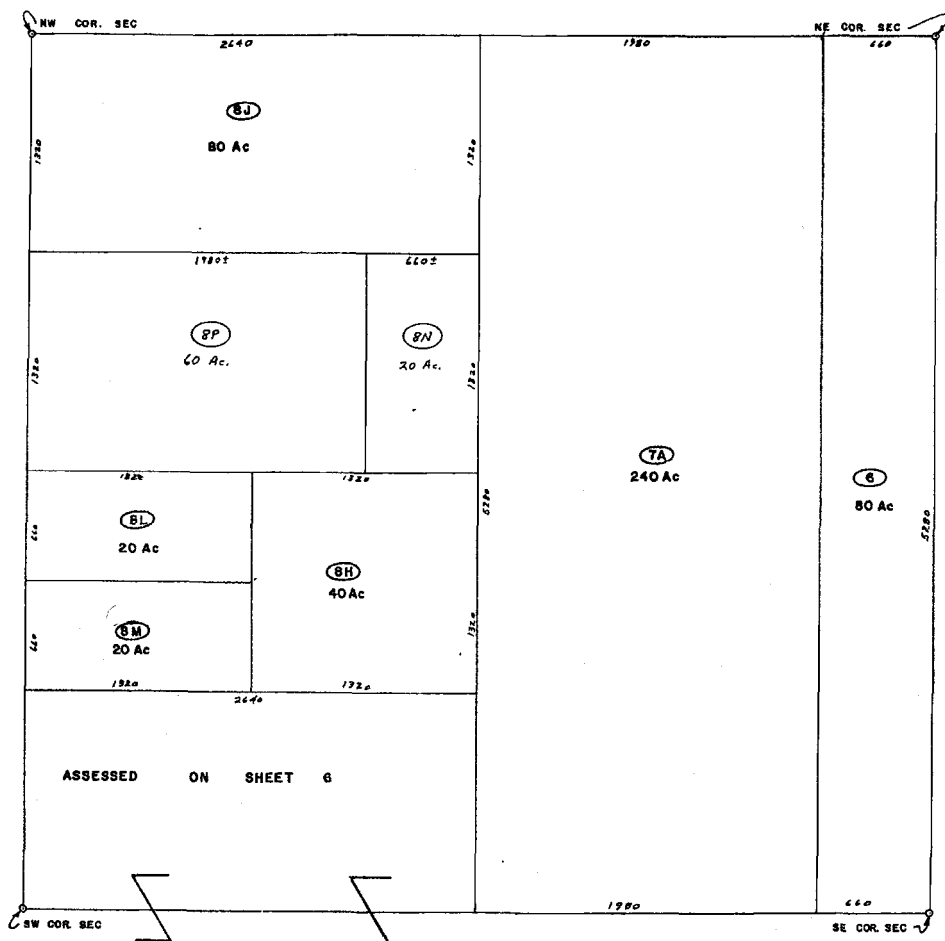
# **EXHIBIT B**

SEC. 26 T. 5 N R. 1 W

BOOK 503  
MAP 89  
SHEET 5

PARCEL NO. 503-89-008-L

PARCEL NO. 503-89-008-M



MARICOPA COUNTY ASSESSORS OFFICE					
SCALE 1" = 400'					
REVISIONS					
No.	Date	By	Project	Sheet	Sheet
1	1/1/81	W. J. TAMM	1-1-1-1-1	1	1
2	1/1/81	W. J. TAMM	1-1-1-1-1	1	1
3	1/1/81	W. J. TAMM	1-1-1-1-1	1	1
4	1/1/81	W. J. TAMM	1-1-1-1-1	1	1
5	1/1/81	W. J. TAMM	1-1-1-1-1	1	1
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8	1/1/81	W. J. TAMM	1-1-1-1-1	1	1
9	1/1/81	W. J. TAMM	1-1-1-1-1	1	1
10	1/1/81	W. J. TAMM	1-1-1-1-1	1	1
11	1/1/81	W. J. TAMM	1-1-1-1-1	1	1
12	1/1/81	W. J. TAMM	1-1-1-1-1	1	1
13	1/1/81	W. J. TAMM	1-1-1-1-1	1	1
14	1/1/81	W. J. TAMM	1-1-1-1-1	1	1
15	1/1/81	W. J. TAMM	1-1-1-1-1	1	1
16	1/1/81	W. J. TAMM	1-1-1-1-1	1	1
17	1/1/81	W. J. TAMM	1-1-1-1-1	1	1
18	1/1/81	W. J. TAMM	1-1-1-1-1	1	1
19	1/1/81	W. J. TAMM	1-1-1-1-1	1	1
20	1/1/81	W. J. TAMM	1-1-1-1-1	1	1

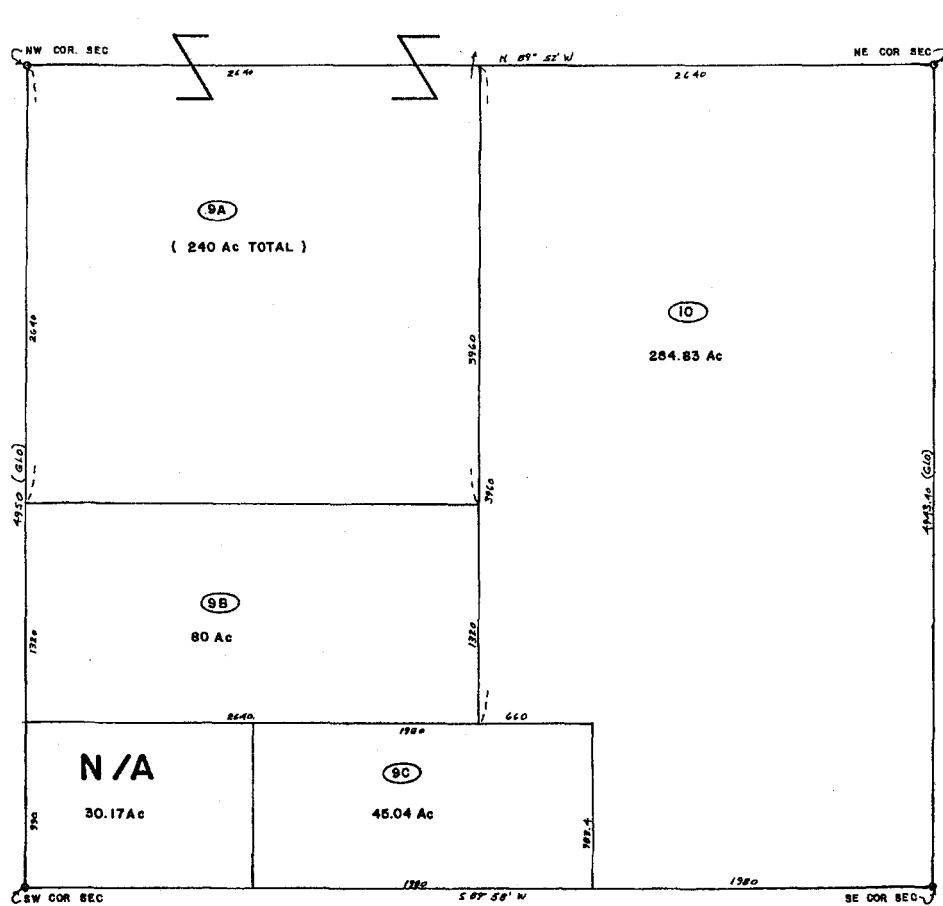
# **EXHIBIT C**

SEC. 35 T.5N R.1W

BOOK 503

MAP 89

SHEET 6



↑  
LOT 1

MARICOPA COUNTY ASSESSORS OFFICE					
SCALE 1"=500'					
REVISIONS:					
No.	Date	By	Revised	By	Check
1	1/1/00	Map	Revised	1/1/00	
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